

enforcement, the Office of Security and Law Enforcement should retain this information as it may aid in establishing patterns of criminal activity and provide leads for those law enforcement agencies charged with enforcing other segments of civil or criminal law.

(v) The application of Privacy Act subsection (e)(2) would impair investigations of illegal acts, violations of the rules of conduct, merit system and any other misconduct for the following reasons:

(A) In order to successfully verify a complaint, most information about a complainant or an individual under investigation must be obtained from third parties such as witnesses and informers. It is not feasible to rely upon the subject of the investigation as a source for information regarding his/her activities because of the subject's rights against self-incrimination and because of the inherent unreliability of the suspect's statements. Similarly, it is not always feasible to rely upon the complainant as a source of information regarding his/her involvement in an investigation.

(B) The subject of an investigation will be alerted to the existence of an investigation if an attempt is made to obtain information from the subject. This would afford the individual the opportunity to conceal any criminal activities to avoid apprehension.

(vi) The reasons for exempting these records in the Police and Security Records—VA (103VA07B) from Privacy Act subsection (e)(3) are as follows:

(A) The disclosure to the subject of the purposes of the investigation would provide the subject with substantial information relating to the nature of the investigation and could impede or compromise the investigation.

(B) Informing the complainant or the subject of the information required by this provision could seriously interfere with undercover activities, jeopardize the identities of undercover agents and impair their safety, and impair the successful conclusion of the investigation.

(C) Individuals may be contacted during preliminary information gathering in investigations before any individual is identified as the subject of an investigation. Informing the individual of the matters required by this provision

would hinder or adversely affect any present or subsequent investigations.

(vii) Since the Privacy Act defines “maintain” to include the collection of information, complying with subsection (e)(5) would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment of its collection. In gathering information during the course of an investigation, it is not always possible to make this determination prior to collecting the information. Facts are first gathered and then placed into a logical order which objectively proves or disproves criminal behavior on the part of the suspect. Material that may seem unrelated, irrelevant, incomplete, untimely, etc., may take on added meaning as an investigation progresses. The restrictions in this provision could interfere with the preparation of a complete investigative report.

(viii) The notice requirement of Privacy Act subsection (e)(8) could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(Authority: 5 U.S.C. 552a (j) and (k); 38 U.S.C. 501)

[48 FR 29847, June 29, 1983, as amended at 68 FR 35298, June 13, 2003]

§§ 1.583–1.584 [Reserved]

**INVENTIONS BY EMPLOYEES OF
DEPARTMENT OF VETERANS AFFAIRS**

AUTHORITY: Sections 1.650 to 1.666 issued under sect. 1, 66 Stat. 811, 72 Stat. 1114; 35 U.S.C. 266; 15 U.S.C. 3710a; 38 U.S.C. 501; E.O. 10096, E.O. 10930, 15 FR 389; 3 CFR 1949–1953 Comp.

**EXPANDED REMOTE ACCESS TO COMPUT-
ERIZED VETERANS CLAIMS RECORDS BY
ACCREDITED REPRESENTATIVES**

§ 1.600 Purpose.

(a) Sections 1.600 through 1.603 establish policy, assign responsibilities and prescribe procedures with respect to:

(1) When, and under what circumstances, VA will grant authorized claimants' representatives read-only access to the automated Veterans Benefits Administration (VBA) claims records of those claimants whom they represent;

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(2) The exercise of authorized access by claimants' representatives; and

(3) The bases and procedures for disqualification of a representative for violating any of the requirements for access.

(b) VBA will grant access to its automated claimants' claims records from locations outside Regional Offices under the following conditions. Access will be provided:

(1) Only to individuals and organizations granted access to automated claimants' records under §§1.600 through 1.603;

(2) Only to the claims records of VA claimants whom the organization or individual represents as reflected in the claims file;

(3) Solely for the purpose of the representative assisting the individual claimant whose records are accessed in a claim for benefits administered by VA; and

(4) On a read-only basis. Individuals authorized access to VBA automated claims records under §§1.600 through 1.603 will not be permitted to modify the data.

(c)(1) Access will be authorized only to the inquiry commands of the Benefits Delivery Network which provide access to the following categories of data:

(i) Beneficiary identification data such as name, social security number, sex, date of birth, service number and related service data; and

(ii) Claims history and processing data such as folder location, claim status, claim establishment date, claim processing history, award data, rating data, including service-connected medical conditions, income data, dependency data, deduction data, payment data, educational facility and program data (except chapter 32 benefits), and education program contribution and delimiting data (except chapter 32 benefits).

(2) Access to this information will currently be through the inquiry commands of BING (BIRLS (Beneficiaries Identification and Records Location Subsystem) Inquiry), SING (Status Inquiry), MINQ (Master Record Inquiry), PINQ (Pending Issue Inquiry) and TINQ (Payment History Inquiry). The identifying information received from BIRLS

to representative inquiries will be limited to file number, veteran's name, date of death, folder location and transfer date of folder, insurance number, insurance type, insurance lapse date and insurance folder jurisdiction.

(d) Sections 1.600 through 14.603 are not intended to, and do not:

(1) Waive the sovereign immunity of the United States; or

(2) Create, and may not be relied upon to create, any right or benefit, substantive or procedural, enforceable at law against the United States or the Department of Veterans Affairs.

[59 FR 47084, Sept. 14, 1994. Redesignated and amended at 73 FR 29870, 29879, May 22, 2008]

§ 1.601 Qualifications for access.

(a) An applicant for read-only access to VBA automated claims records from a location other than a VA Regional Office must be:

(1) An organization, representative, attorney or agent approved or accredited by VA under §§14.626 through 14.635; or

(2) An attorney of record for a claimant in proceedings before the Court of Veterans Appeals or subsequent proceedings who requests access to the claimant's automated claims records as part of the representation of the claimant.

(b) The hardware, modem and software utilized to obtain access, as well as their location, must be approved in advance by VBA.

(c) Each individual and organization approved for access must sign and return a notice provided by the Regional Office Director (or the Regional Office Director's designee) of the Regional Office of jurisdiction for the claim. The notice will specify the applicable operational and security requirements for access and an acknowledgment that the breach of any of these requirements is grounds for disqualification from access.

[59 FR 47084, Sept. 14, 1994. Redesignated at 73 FR 29870, May 22, 2008]

§ 1.602 Utilization of access.

(a) Once an individual or organization has been issued the necessary passwords to obtain read-only access to